

properly be combined with each other when such would result in destroying that on which the invention of one of the references is based. *Ex parte Hartmann*, 186 USPQ 366, 367 (PTO Bd. App. 1974); Emphasis Added. Thus, following the rationale of *Ex parte Hartmann*, if one reference cited by the Examiner in a combination would be destroyed by the proposed combination, then an attack based on the destruction of such a reference would be valid and could obviate a rejection based on obviousness. Moreover, the same logic would apply in attacking a primary reference based upon the absence of motivation to modify. Applicants reserve their rights to advance such arguments in overcoming the present rejection.

Moving to the merits of the present rejection, the Applicants submit that, contrary to the Examiner's assertion, there exists no motivation to engage in the proposed modification of Oxenboll. To reiterate, the Examiner asserts that Oxenboll teaches detergent compositions may additionally comprises one or more other enzymes. See Paper No. 9; page 5. The Applicants direct the distinguished Examiner's attention to the explicit disclosure of Oxenboll with regards to the incorporation of additional enzymes into a detergent composition, which states, in pertinent part, "The detergent compositions may additionally comprise one or more other enzymes, such as pullulanase, esterase, lipase, cutinase, protease, cellulase or peroxidase." See Oxenboll; Col. 27; lines 34-36. Thus, although Oxenboll discloses the incorporation of additional enzymes into a detergent composition, said incorporation is explicitly limited to the above-listed enzymes. The Applicants submit that there exists no motivation to modify the reference with an enzyme that has not been delineated by Oxenboll, and particularly not the oxidoreductase of the present disclosure. It is the Applicants' position that, had Oxenboll recognized the vast benefits of incorporating the present oxidoreductase enzyme into a detergent composition, said enzyme would have certainly been disclosed. After all, Oxenboll discusses detergent compositions at length and provides an exhaustive list of enzymes suitable for employment in the subject composition.

Indeed, the courts have established, there must be some logical reason apparent from positive, concrete evidence of record that justifies a combination of primary and secondary references. *In re Regel, Buchel, and Plempe*, 526 F.2d 1399, 188 USPQ 136, 139 (CCPA 1975). As there exists no motivation to modify the primary reference of Oxenboll with the oxidoreductase of the present disclosure, the attempted combination must fail. Accordingly, reconsideration and withdrawal of the rejection to Claims 1, 27-49 and 54-62 under 35 USC § 103(a) is respectfully requested.

Rejection under 35 USC § 103(a) over Van Pee in view of Figueroa

The Examiner has rejected Claims 1, 27-55, 57 and 61 under 35 USC § 103(a) as allegedly being unpatentable over Van Pee in view of US Patent No. 5,500,153 to Figueroa et al. (herinafter "Figueroa"). Specifically, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to incorporate the bleaching agents of Van Pee into the compositions taught by Figueroa. See Paper No. 9; page 7. The Applicants respectfully traverse the Examiner's rejection.

Initially, Applicants wish to renew their previous arguments against the imposition of the reference of Van Pee in the present rejection. It is clear from the explicit disclosure of Van Pee that the subject compositions disclosed therein are designed for use at a pH range of from 3.5 to 6.0, which is clearly outside the optimal pH range of the claimed composition. The Examiner's citation of a Van Pee mixture characterized by a pH of 6.8 contravenes the very basis upon which the compositions of Van Pee are defined – namely, a pH of from 3.5 to 6.0. Furthermore, the Applicants submit that even a pH of 6.8 is outside the explicit, optimal pH range of the present invention. Contrary to the Examiner's assertion, the difference between 6.8 and 7.0 is significant, particularly in light of the fact that compositions characterized by a pH below 7.0 are acidic.

With regards to Figueroa, the Applicants submit that there exists no motivation to combine the secondary reference with Van Pee. The Examiner asserts that Figueroa teaches a "detergent composition that comprises enzymes of any suitable origin such as bacteria and fungal." See Paper No. 9, page 7. The Applicants submit that the Examiner has misconstrued the disclosure of Figueroa with regards to enzymes. The Applicants direct the Examiner's attention to the explicit disclosure of Figueroa, which states, in pertinent part, "In this respect bacterial or fungal enzymes are preferred, such as bacterial amylases and proteases, and fungal cellulases." See Figueroa; Col. 9; lines 2-5. The disclosure of Figueroa discusses other suitable enzymes of the subject composition, which include proteases, amylases, cellulases, lipases and peroxidases. Figueroa makes no reference to the oxidoreductase of the present disclosure or even to the class from which the present oxidoreductase is drawn. The Applicants submit that the Examiner has mischaracterized the disclosure of Figueroa with regards to enzymes and said mischaracterization has led to the imposition of the present rejection.

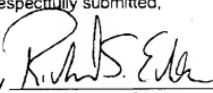
Moreover, the Applicants urge that any alleged motivation to combine the references of Van Pee and Figueroa is further removed by Figueroa's clear disclosure of a peroxidase-based bleaching system. The Applicants respectfully direct the Examiner's attention to the disclosure of Figueroa on the matter, which states, in pertinent part, "Peroxidase enzymes are used in combination with oxygen sources, e.g., percarbonate, perborate, persulfate, hydrogen peroxide, etc. They are used for 'solution bleaching'..." See Figueroa; Col. 10; lines 4-7. Thus, there exists no motivation to modify Figueroa with that which the reference explicitly and already accomplishes – namely, a bleaching system comprising a peroxidase enzyme with a source of oxygen. Accordingly, the Applicants respectfully request withdrawal of the present rejection and allowance of Claims 1, 27-55, 57 and 61.

CONCLUSION

Applicants have made an earnest effort to place the present claims in condition for allowance. WHEREFORE, entry of the amendments provided herewith, reconsideration of the claims as amended in light of the Remarks provided, withdrawal of the claims rejections, and allowance of Claims 1 and 27-62, as amended, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned agent to discuss any remaining issues.

Respectfully submitted,

By


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VERSION WITH MARKINGS INDICATING CHANGES MADE

32. A cleaning composition according to claim 32-claim 1 wherein the organic acid is comprised at a level of from 0.5% to 40% by weight of total composition.

33. A cleaning composition according to claim 33-claim 1-wherein the organic acid is comprised at a level of from 1% to 20% by weight of total composition.

41. A cleaning composition according to claim 46-claim 38-wherein said level of hydrogen peroxide are maintained with a controlled releasing system.

47. A cleaning composition according to claim 1 further comprising ~~another~~ bleach system.

58. A method of cleaning comprising the step of contacting a hard surface such as a floor, a wall and a bathroom tile-and the like, with a cleaning composition comprising a surfactant system, an oxidoreductase with an α/β-hydrolase fold and a catalytic triad consisting of the amino acid residues serine, histidine and aspartic acid, a hydrogen peroxide source and an organic acid.